

REMARKS

Claims 1-17 and 35-52 are pending. In response to the restriction requirement, Applicants provisionally elect Group I consisting of claims 1-17 and species G as identified by the Examiner.

Election/Restrictions

Applicants, through their attorney, provisionally elect Group I consisting of claims 1-17 and species G with traverse. Applicants traverse the restriction requirement on the following basis.

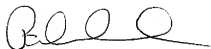
According to MPEP 808, “[e]very requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why each invention as claimed is either independent or distinct from the other *and* (B) the reasons why there would be a *serious* burden on the examiner if restriction is not required.” (emphasis added)

Here, the Restriction Requirement does not even allege, much less provided reasons that a serious burden would be place upon the Examiner by examining claims to the device of claims 1-17 and the closely related method of claims 35-52. No such allegation or related reasons are present in either the restriction requirement of June 16, 2008 or November 14, 2008. The specification of the application states that “the method according to the invention can be carried out using the device according to the invention.” Paragraph 0015. The claimed device and method relate to the same invention because their respective features, as claimed, for example in claims 1 and 35, correspond to each other. The method and device of the invention are realizations of a common concept. Thus, it would not be a serious burden on the Examiner to examine both the device claims 1-17 and the method claims of 35-52. Applicants respectfully request that the restriction requirement be withdrawn.

Applicants note that elected species G, as designated by the Examiner, is directed to a device that includes a therapeutic beam, for example a treatment laser beam. Claims 1-17 are directed to a device that can be used with a treatment laser and thus read on this species. The method of recited in claims 35-52 also read on such a species. At least claims 1 and 35 are generic.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. C. Onderick', with a long horizontal line extending to the right.

Paul C. Onderick  
Registration No. 45,354

Customer No. 24113  
Patterson, Thunte, Skaar & Christensen, P.A.  
4800 IDS Center  
80 South 8th Street  
Minneapolis, Minnesota 55402-2100  
Telephone: (612) 349-5766